IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.4783 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.M.B.Gawade for the Petitioner
Mr. C.R. Sonawane, AGP for Respondents 1 to 6.
Mr. S.A.Sawant for Respondent No.7

CORAM : F.I. REBELLO & MRS.R.S.DALVI,JJ.
DATED : NOVEMBER 14,2005

P.C.

. The petitioner, a project affected person, had claimed that he is entitled to allotment of fertile land. Various proceedings had transpired. As he had not been given possession of a fertile land he approached this Court by the present petition.

2. An affidavit was filed by V.N.Barathe, Office Superintendent & Tahsildar (Resettlement). It was pointed out therein that the petitioner was allotted a piece of land which is infertile and having Potkharaba. Earlier the petitioner had been granted land to the extent of 1

Hector 61 Ares from Survey NO.95, which was fertile land. The Respondent No.7 herein had approached the Divisional Commissioner, Pune. After hearing the petitioner the Divisional Commissioner allowed his application partly and directed the District Resettlement Officer to make enquiry as to whether the petitioner is entitled to a portion of land admeasuring 1 Hector 61 Ares, which is fertile land as per the original map. The District Resettlement Officer, Pune, by letter dated 18th June, 2005 has informed the Resettlement Officer, Kukadi Project, Narayangaon (Junnar) District Pune to hand over the possession of the portion to the petitioner, after making enquiry. The Resettlement Officer thereafter informed the petitioner by letter of 28th June, 2005 to attend the office of the Resettlement Office, Junner on 5th July, 2005 for taking possession of the land admeasuring 1 Hector 61 Ares from Survey No.95. The Respondent No.7 approached the Divisional Commissioner, Pune, who granted stay to the giving possession of the land admeasuring 1 Hector 61 Ares with fertile portion of land to the petitioner. The stay was granted against the petitioner. In the affidavit dated 30th August, 2005 it was set

out that the parties would be heard and the matter would be decided. An additional affidavit has been filed on 21st October, 2005 by Prabhakar D. Karandikar, Divisional Commissioner. It is pointed out therein that in terms of the award and the survey report of the Taluka Inspector of Land the District Resettlement Officer had held that the possession of the portion of land towards East-West from the Centre of the land bearing Gat No.95 situated at village Golegaon, Taluka Junner, District Pune as per award of the Special Land Acquisition Officer and the Survey report of the Taluka Inspector of land records be given to the petitioner and the earlier possession given to the petitioner be treated as cancelled and possession of that land be given to the respondent No.7. It is pointed out that according the District Resettlement Officer, Pune had issued notice to comply with the order. The affidavit specifically sets out that the District Resettlement Officer has held that the grievance of the petitioner is genuine and that he has not received the fertile land and he is entitled to the relief prayed for. In other words the respondents Nos.1 to 6 have accepted the right of the petitioner to accept the land.

3. In the meantime on behalf of the Respondent No.5 learned Counsel makes a statement that he has preferred a Revision Application before the Divisional Commissioner, who has granted stay. It is the same authority who has filed the affidavit before this Court. That stay has been granted exparte. After considering the controversy the petition can be disposed of by issuing the following directions:-

(i) We direct the Respondent No.7 to appear before the Divisional Commissioner on 24th November, 2005 at 11.00 a.m. for further directions. The Divisional Commissioner, Pune, thereafter after hearing the parties within 30 days from the date of appearance to dispose of the Revision Application preferred by the Respondent No.7 according to law.

(ii) If the Divisional Commissioner passes order in favour of the petitioner, the possession of the land be given to the petitioner within 30 days thereof.

(iii) Rule made absolute accordingly. No order as to costs.

(**F.I. REBELLO, J.**)

(MRS. R.S. DALVI, J.)